

MDR Tracking Number: M5-04-3642-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on June 28, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity is not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On the matters of medical necessity, CPT Code 99213-MP for dates of service 07/02/03 and 07/09/03 and CPT Code 98940 for dates of service 08/07/03, 08/14/03, 08/26/03, 09/24/03, 10/22/03, and 01/06/04 **were found to be medically necessary**.

CPT Codes 99213-MP for date of service 07/03/03; 99070 (Biofreeze) for date of service 08/14/03; 99214 for dates of service 08/26/04 and 09/24/03; 98940 for dates of service 09/11/03 through 12/23/03; and 99214-25 for date of service 11/05/03 **were not found to be medically necessary**.

The respondent raised no other reasons for denying reimbursement for the medical necessity issues.

On July 23, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 99080-73 for date of service 07/02/03. The carrier denied CPT Code 99080-73 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, reimbursement in the amount of \$15.00 is recommended.
- CPT Code 98940 for dates of service 10/09/03, 11/19/03 and 12/23/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Therefore, the disputed services will be reviewed according to Rule 134.202(b). Reimbursement

according to the Medicare Fee Schedule times 125% is \$31.35 (\$25.08 x 125%); however, requestor has requested reimbursement of \$30.14 per manipulation. Reimbursement in the amount of \$90.42 (\$30.14 x 3) is recommended.

- CPT Code 99214-25 for date of service 11/19/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Therefore, the disputed services will be reviewed according to Rule 134.202(b). Reimbursement according to the Medicare Fee Schedule times 125% is \$96.91 (\$77.53 x 125%); however, the requestor has requested reimbursement in the amount of \$92.30 for the office visit. Reimbursement in the amount of \$90.30 is recommended.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service **07/02/03, 07/09/03** through **08/14/03** and **08/26/03, 10/09/03, 11/22/03** and **11/19/03** through **01/06/04** in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 9<sup>th</sup> day October 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf  
Enclosure: IRO decision

08/04/2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3642-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ was injured on \_\_\_ while working for Continental Airlines. He was reportedly lifting luggage when he felt pain in his lower back. He presented to the office of James Boyd, DC on 11/12/2002. Diagnostics revealed a spondylolisthesis at L5 with a reported lytic nature and degenerative changes of L4/5. Passive therapies, ESI's, FCE's, active therapies and an NCV were performed on this patient. A discogram was reportedly denied by the carrier according to the submitted documentation. A peer review was performed by Dr. White, a chiropractic physician. The peer review had multiple errors and the doctor admitted he made the decision to deny care without the chiropractic doctor's treatment records or notes. The patient was forced to change job types due to the very heavy PDL demand of his job. He currently works as a teacher. He responded fairly well to treatment and apparently required continued palliative care according to the treating doctor.

#### DISPUTED SERVICES

Disputed services include office visits (99213, 99214, 99214-25), chiropractic manipulation (98940) and biofreeze (99070).

#### DECISION

The reviewer disagrees with the previous adverse determination regarding the office visits (99213) on 7/2/03 and 7/9/03.

The reviewer disagrees with the previous adverse determination regarding chiropractic manipulation (98940) on 8/7/03, 8/14/03, 8/26/03, 9/24/03, 10/22/03 and 1/6/04.

The reviewer agrees with the previous adverse determination regarding all other services.

The reviewer notes that DOS 11/19/03 and 12/23/03 are stated to be without EOB's therefore, they were not officially part of this review.

#### BASIS FOR THE DECISION

The reviewer indicates that this provider performed rehabilitative services through 6/30/03. The patient appeared to improve throughout treatment. The peer review by Dr. White was of questionable clinical substance due to the documented admission of a lack of proper records which he was provided to review. Chiropractic manipulation is the preferred and medically standard treatment for chronic lumbar spine pain according to the AHCPR Guidelines. The reviewer notes that the 99214 office visits were not properly documented for that level of service. The reviewer notes that the biofreeze is not clinically indicated in a chronic condition and that the patient could have used any commercially available balm with similar results at a lesser cost.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO  
CC: Specialty IRO Medical Director